

# A BILL

To provide compensation and benefits to Department of Energy Federal and contractor employees for exposure to certain toxic substances, and for other purposes.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

## SECTION 1. SHORT TITLE; TABLE OF CONTENTS

(a) SHORT TITLE.—This Act may be cited as the “Energy Employees Occupational Illness Compensation Amendments of 2001”.

(b) TABLE OF CONTENTS.—The table of contents of this Act is as follows:

Sec. 1. Short title; Table of Contents.  
Sec. 2. Findings.

### TITLE I--COMPENSATION PROGRAM

Sec. 101. Appropriations and compensation fund.  
Sec. 102. Exposure in the performance of duty.  
Sec. 103. Designation of additional members of Special Exposure Cohort.  
Sec. 104. Compensation program.  
Sec. 105. General provisions.

### TITLE II --TECHNICAL AND CONFORMING AMENDMENTS

Sec. 201. Conforming amendments.  
Sec. 202. Technical amendments.  
Sec. 203. Amendment to the Radiation Exposure Compensation Act.  
Sec. 204. Effective date

## SEC. 2. FINDINGS.

Congress finds that--

1           (1) The Energy Employees Occupational Illness Compensation Program  
2 Act of 2000, Title XXXVI of the Floyd D. Spence National Defense  
3 Authorization Act for Fiscal Year 2001(P.L. 106-398), established the Energy  
4 Employees Occupational Illness Compensation Program.

5           (2) Further legislation is required to enact provisions for adjudication of  
6 claims and awarding of benefits.

7           (3) The provisions of this legislation further the purpose of the Energy  
8 Employees Occupational Illness Compensation Program Act of 2000, to establish  
9 a science-based compensation program for workers made ill by exposure to toxic  
10 substances uniquely associated with the nuclear weapons production and testing  
11 processes.

## 12                                   **TITLE I—COMPENSATION PROGRAM**

### 13   **SEC. 101. APPROPRIATIONS AND COMPENSATION FUND.**

14           (a) APPROPRIATIONS.—Section 3614 of the Energy Employees  
15 Occupational Illness Compensation Program Act of 2000, Title XXXVI of the  
16 Floyd D. Spence National Defense Authorization Act for Fiscal Year 2001 (P.L.  
17 106-398) (hereinafter referred to as “EEOICPA”), is amended to read as follows:

#### 18   **“SEC. 3614. APPROPRIATIONS.**

19           “(a) IN GENERAL.—There is hereby authorized to be appropriated to  
20 remain available until expended such sums as are necessary for administering the  
21 compensation program.

22           “(b) AMOUNTS IN COMPENSATION FUND. Such sums as may be  
23 necessary to make compensation payments under this Act are hereby appropriated  
24 to the compensation fund established by section 3612.”.

25           (b) COMPENSATION FUND.—Section 3612 of the EEOICPA is  
26 amended by—

1 (1) amending subsection (b) to read as follows:

2 “(b) AMOUNTS IN THE COMPENSATION FUND. The compensation  
3 fund shall consist of amounts appropriated to it under section 3614(b).”;

4 (2) striking subsections (c) and (f) and redesignating subsections  
5 (d) and (e) as (c) and (d) respectively; and

6 (3) in new subsection (c), striking “(e)” and inserting “(d)”.

7 **SEC. 102. EXPOSURE IN THE PERFORMANCE OF DUTY.**

8 (a) BERYLLIUM.— Section 3623(a) of the EEOICPA is amended to read  
9 as follows:

10 “(a) BERYLLIUM.— (1) In the absence of substantial evidence to the  
11 contrary, a covered beryllium employee specified in section 3621 (7)(A) or (B) of  
12 this Act shall be determined to have been exposed to beryllium in the performance  
13 of duty for the purposes of this Act if, and only if, the covered beryllium employee  
14 was—

15 “(A) employed at a Department of Energy facility; or

16 “(B) present at a Department of Energy facility, or a facility owned  
17 and operated by a beryllium vendor, because of employment by the United  
18 States or a contractor or subcontractor of the Department of Energy;  
19 during a period when beryllium dust, particles, or vapor may have been present at  
20 such facility.

21 “(2) In the absence of substantial evidence that a covered beryllium  
22 employee specified in section 3621(7)(C) of this Act was never exposed to dust,  
23 particles or vapor of beryllium that was produced or processed for sale to, or use  
24 by, the Department of Energy, such an employee shall be determined to have been  
25 exposed to beryllium in the performance of duty for the purposes of this Act.”.

1 (b) DOSE RECONSTRUCTION.--Section 3623(d) of the EEOICPA is  
2 amended to read as follows:

3 “(d) METHODS FOR RADIATION DOSE RECONSTRUCTION.—The  
4 Secretary of Health and Human Services, after consultation with the Secretary of  
5 Energy, shall establish by regulation methods for arriving at reasonable estimates  
6 of the radiation doses that Department of Energy employees or Department of  
7 Energy contractor employees received at a Department of Energy facility and  
8 atomic weapons employees received at a facility operated by an atomic weapons  
9 employer.”.

10 **SEC. 103. DESIGNATION OF ADDITIONAL MEMBERS OF SPECIAL**  
11 **EXPOSURE COHORT.**

12 Section 3626 of the EEOICPA is amended by striking “President” each  
13 time it appears and inserting “Secretary of Health and Human Services”.

14 **SEC. 104. COMPENSATION PROGRAM.**

15 (a) COMPENSATION AND OTHER ASSISTANCE.--Section 3628 of  
16 the EEOICPA is amended to read as follows:

17 **“SEC. 3628. AUTHORITY TO PROVIDE COMPENSATION AND**  
18 **OTHER ASSISTANCE.**

19 “(a) COMPENSATION.—Subject to the provisions of this Act, the  
20 Secretary of Labor—

21 “(1) shall pay compensation in accordance with sections 8105  
22 through 8110, 8112, 8113, 8115, 8117, 8133, 8134, 8146a(a), and  
23 8146a(b) of title 5, United States Code, for the disability or death--

24 “(A) from a toxic illness of a covered employee who was  
25 exposed to a toxic substance while in the performance of duty as

1                   determined in accordance with section 3623(a) or 3627(c) of this  
2                   Act; and

3                   “(B) from cancer of a covered employee with cancer who  
4                   is determined to have sustained that cancer in the performance of  
5                   duty in accordance with section 3623(b) of this Act or from any  
6                   injury suffered as a consequence of that cancer;

7                   “(2) shall furnish the services and other benefits specified in  
8                   section 8103 of title 5, United States Code, to--

9                   “(A) a covered employee with a toxic illness who was  
10                  exposed to a toxic substance in the performance of duty as  
11                  determined in accordance with section 3623(a) or 3627(c) of this  
12                  Act; and

13                  “(B) a covered employee with cancer who is determined to  
14                  have sustained that cancer in the performance of duty in  
15                  accordance with section 3623(b) of this Act or to have suffered any  
16                  injury as a consequence of that cancer; and

17                  “(3) may direct a permanently disabled individual whose disability  
18                  is compensable under this Act to undergo vocational rehabilitation and  
19                  shall provide for furnishing such vocational rehabilitation services  
20                  pursuant to the provisions of sections 8104, 8111(b), and 8113(b) of title  
21                  5, United States Code.

22                  “(b) LIMITATIONS ON COMPENSATION.—

23                  “(1) No compensation or benefits may be paid or provided under  
24                  this Act for a cancer (including a specified cancer), a toxic illness, or death  
25                  if the cancer (including a specified cancer), toxic illness, or death occurred

1 under one of the circumstances set forth in paragraph (1), (2), or (3) of  
2 section 8102(a) of title 5, United States Code.

3 “(2) No compensation may be paid under this Act for any period  
4 before the effective date of this Act, except in the case of compensation  
5 under sections 3629(a) or 3630(a) of this Act.

6 “(3) All compensation under this Act shall be paid from the  
7 Energy Employees Occupational Illness Compensation Fund.

8 “(c) COMPUTATION OF PAY.--

9 “(1) Except as otherwise provided by this Act or by regulation,  
10 computation of pay under this Act shall be determined in accordance with  
11 section 8114 of title 5, United States Code.

12 “(2) If either of the methods of determining the average annual  
13 earnings specified in section 8114(d)(1) and (2) of title 5, United States  
14 Code, cannot be applied reasonably and fairly, the average annual earnings  
15 are a sum that reasonably represents the annual earning capacity of the  
16 covered employee in the employment in which the employee was working  
17 at the time of injury having regard to the previous earnings of the  
18 employee in similar employment, and of other employees of the same  
19 employer in the same or most similar class working in the same or most  
20 similar employment in the same or neighboring location, other previous  
21 employment of the employee, or other relevant factors. However, the  
22 average annual earnings may not be less than 150 times the average daily  
23 wage the covered employee earned in the employment during the days  
24 employed within 1 year immediately preceding the time of injury.”.

25 (b) ALTERNATIVE COMPENSATION.--Section 3629 of the EEOICPA  
26 is amended to read as follows:

1   **“SEC. 3629. ALTERNATIVE COMPENSATION.**

2           “(a) IN GENERAL.—Subject to the provisions of this Act, a covered  
3   employee or the survivor of a deceased covered employee may elect to receive  
4   alternative compensation in the amount of \$150,000 in lieu of any other  
5   compensation under sections 3628(a)(1) and 3628(a)(3) of this Act to which the  
6   employee or the employee’s survivors may be entitled.

7           “(b) DETERMINATION.—A covered employee or the survivor of a  
8   deceased covered employee may elect to receive alternative compensation if, and  
9   only if, the Secretary of Labor determines that the employee—

10           “(1)(A) was exposed to a toxic substance in the performance of  
11   duty as determined in accordance with section 3623(a) of this Act;

12           “(B) sustained Chronic Beryllium Disease; and

13           “(C) demonstrates the existence of Chronic Beryllium Disease and  
14   its diagnosis by medical documentation created during the employee’s  
15   lifetime or at the time of death or autopsy;

16           “(2)(A) contracted cancer after beginning employment as a  
17   Department of Energy contractor employee or a Department of Energy  
18   employee at a Department of Energy facility or as an atomic weapons  
19   employee at an atomic weapons employer facility;

20           “(B) is determined to be a covered employee with cancer who  
21   sustained that cancer in the performance of duty in accordance with  
22   section 3623(b) of this Act; and

1           “(C) demonstrates the existence of that cancer and its diagnosis  
2 by medical documentation created during the employee’s lifetime or at the  
3 time of death or autopsy; or

4           “(3)(A) was exposed to a toxic substance in the performance of  
5 duty as determined in accordance with section 3627(c) of this Act;

6           “(B) sustained a toxic illness as defined in section 3627(e) of this  
7 Act after being exposed in the performance of duty;

8           “(C) demonstrates the existence of a toxic illness as defined in  
9 section 3627(e) of this Act and its diagnosis by medical documentation  
10 created during the employee’s lifetime or at the time of death or autopsy;  
11 and

12           “(D) has provided the medical documentation specified in section  
13 5(b)(5)(A) and (B) of the Radiation Exposure Compensation Act (42  
14 U.S.C 2210 note).

15           “(c) DEATH BEFORE ELECTION. —

16           “(1) Subject to the provisions of this Act, if a covered employee  
17 otherwise eligible to make an election provided by this section dies before  
18 the effective date of this Act, or before making the election, whether or not  
19 the death is a result of a cancer (including a specified cancer), or a toxic  
20 illness, a survivor of the covered employee on behalf of the survivor and  
21 any other survivors of the covered employee may make the election and  
22 receive the compensation provided for under this section.

23           “(2) The right to make an election and to receive compensation  
24 under this section shall be afforded to survivors in the order of precedence  
25 set forth in section 8109 of title 5, United States Code.



1           “(d) TIME LIMIT FOR ELECTION.—An election under this section may  
2 be made at any time after the submittal under this Act of the claim on which such  
3 compensation is based, but not later than 30 days after the later of the date of—  
4           “(1) a determination by the Secretary of Labor that an employee is  
5 eligible for an award under this section; or  
6           “(2) a determination by the Secretary of Labor under section 3628  
7 of this Act awarding an employee or an employee’s survivors  
8 compensation for total or partial disability or compensation in case of  
9 death.  
10          “(e) IRREVOCABILITY OF ELECTION.—  
11           “(1) An election under this section when made is irrevocable.  
12           “(2) An election made by a covered employee or survivor under  
13 this section is binding on all survivors of the covered employee.”.  
14          (c) CLAIM ADMINISTRATION AND REVIEW.—Subtitle B of the  
15 EEOICPA is amended by adding, at the end thereof, new sections 3632 – 3636 as  
16 follows:  
17       **“SEC. 3632. SUBMITTAL OF CLAIMS.**  
18           “(a) CLAIM REQUIRED.—A claim for compensation under this Act  
19 shall be submitted to the Secretary of Labor in the manner specified in section  
20 8121 of title 5, United States Code.  
21           “(b) GENERAL TIME LIMITATIONS.—A claim for compensation  
22 under this Act shall be filed under this section not later than the later of—  
23           “(1) seven years after the effective date of this Act;  
24           “(2) seven years after the date the claimant first becomes aware or  
25 should have become aware that a cancer (including a specified cancer),  
26 toxic illness, or death from any of the foregoing of a covered employee

1 may be connected to the exposure of the covered employee to radiation or  
2 a toxic substance in the performance of duty; or

3 “(3) in the case of a claim for benefits based upon an award under  
4 section 5 of the Radiation Exposure Compensation Act, the later of seven  
5 years after the date of that award or seven years after the effective date of  
6 this Act.

7 “(c) NEW PERIOD FOR ADDITIONAL ILLNESSES AND  
8 CONDITIONS. —A new period of limitation under subsection (b) shall  
9 commence with each new diagnosis of a cancer (including a specified cancer) or a  
10 toxic illness that is different from a previously diagnosed cancer (including a  
11 specified cancer) or toxic illness.

12 “(d) DEATH CLAIM.—The timely filing of a disability claim for a  
13 cancer (including a specified cancer) or a toxic illness shall satisfy the time  
14 requirements of this section for death benefits for the same cancer (including a  
15 specified cancer) or toxic illness.

16 **“SEC. 3633. INITIAL SCREENING AND PROCEDURE FOR DOSE**  
17 **RECONSTRUCTION.**

18 “(a) REQUEST.—

19 “(1) A claimant seeking benefits under this Act based upon a  
20 cancer sustained by a Department of Energy employee, a Department of  
21 Energy contractor employee or an atomic weapons employee may elect to  
22 have the Secretary of Labor determine whether such employee’s cancer  
23 was at least as likely as not related to employment, pursuant to section

1           3623(b) of this Act, based upon actual records of the radiation dose  
2           received by that employee furnished by the Secretary of Energy or upon an  
3           estimate of the radiation dose determined pursuant to this section.

4           “(2) Such an election shall be made in accordance with procedures  
5           set forth by the Secretary of Labor and shall be irrevocable. An election  
6           made by a covered employee or survivor under this section is binding on  
7           all survivors of the covered employee.

8           “(3) The Secretary of Labor, in consultation with the Secretary of  
9           Health and Human Services, shall specify in regulations the manner in  
10          which a claimant may request that an estimate of an employee’s radiation  
11          dose be calculated.

12          “(b) INITIAL SCREENING.—Upon receipt of a request for a calculation  
13          of an estimate of the radiation dose received by an employee, the Secretary of  
14          Labor shall determine whether:

15                  “(1) the claimant filed a timely claim; and

16                  “(2) the employee at issue is an individual specified in section  
17          3621(9)(B) of this Act.

18          If the Secretary of Labor determines that a claim meets those requirements, the  
19          Secretary of Labor shall forward to the Secretary of Health and Human Services a

1 request that an estimate of the radiation dose received by the relevant employee be  
2 calculated.

3 “(c) APPEAL OF INITIAL SCREENING DETERMINATION.—A  
4 claimant whose claim is determined not to meet the criteria set forth in subsection  
5 (b) of this section may appeal that determination to the Energy Employees Review  
6 Panel pursuant to the procedures set forth in section 3635 of this Act.

7 “(d) CALCULATION.—Upon receipt of a request from the Secretary of  
8 Labor, pursuant to section 3634(b) of this Act, for the preparation of an estimate  
9 of the radiation dose received by an employee, the Secretary of Health and Human  
10 Services shall calculate an estimate of the radiation dose received by such  
11 employee, pursuant to the methods established pursuant to section 3623(d) of this  
12 Act, and shall transmit the calculation to the claimant.

13 “(e) RECONSIDERATION.—A claimant may obtain reconsideration of  
14 the calculation of an estimate of the radiation dose received by such employee if  
15 the claimant provides to the Secretary of Health and Human Services new  
16 evidence that:

17 “(1) was not reasonably available at the time that a previous  
18 estimate of the radiation dose received by such employee was issued; and

19 “(2) would likely lead to a revision of that calculation to an extent

1           sufficient to result in a determination pursuant to section 3623(b) of this  
2           Act that such employee’s cancer was at least as likely as not related to  
3           employment

4           “(f) REVIEW.—A claimant may obtain review of the calculation of the  
5           estimate of the radiation dose by the Energy Employees Review Panel, pursuant to  
6           the procedures set forth in section 3635 of this Act.

7           “(g) FINALITY.—A claimant who fails to seek review before the Energy  
8           Employees Review Panel within the time limit specified in section 3635(e) of this  
9           Act of the calculation by the Secretary of Health and Human Services of the  
10          estimate of a radiation dose received by an employee shall be deemed to have  
11          waived all objections to the use of that estimated dose by the Secretary of Labor in  
12          proceedings under this Act.

13       **“SEC. 3634. ADJUDICATION AND ADMINISTRATION.**

14           “(a) IN GENERAL.—

15                   “(1) The Secretary of Labor shall determine and make a finding of  
16           facts and make an award for or against payment of compensation under  
17           this Act after--

18                           “(A) considering the claim presented by the claimant, the  
19                           results of any medical test or diagnosis undertaken to establish the  
20                           existence of a cancer (including a specified cancer) or a toxic  
21                           illness, and any report furnished by the Secretary of Energy or the

1 Secretary of Health and Human Services with respect to the claim;  
2 and

3 “(B) completing such investigation as the Secretary of  
4 Labor considers necessary.

5 “(2) The Secretary may allow or deny a claim, in whole or in part.

6 “(b) AVAILABLE AUTHORITIES.—

7 “(1) Except as provided in paragraph (2), in carrying out activities  
8 under this Act, the Secretary of Labor may utilize the authorities available  
9 to the Secretary under sections 8123, 8124(b), 8125, 8126, 8128(a), and  
10 8129 of title 5, United States Code.

11 “(2) If there is a disagreement under section 8123(a) of title 5,  
12 United States Code, between the physician making the examination for the  
13 United States and the physician of the employee, the Secretary of Labor  
14 shall appoint a third physician from a roster of physicians with relevant  
15 expertise maintained by the Secretary of Health and Human Services.

16 “(c) RIGHTS OF CLAIMANT.—

17 “(1) Except as provided by paragraph (2), the provisions of section  
18 8127 of title 5, United States Code, shall apply.

19 “(2) A claimant may commence an action in the appropriate  
20 district court of the United States against a beryllium vendor, or other  
21 contractor or subcontractor of the Department of Energy, to compel the  
22 production of information or documents requested by the Secretary of  
23 Labor under this Act if such information or documents are not provided  
24 within 180 days of the date of the request. Upon successful resolution of  
25 any action brought under this paragraph, the court shall award the claimant

1 reasonable attorney fees and costs to be paid by the defendant in such  
2 action.

3 “(d) EVIDENCE IN EQUIPOISE.—Except as provided in subsection  
4 (b)(2), in determining whether a claimant meets the requirements of this Act, the  
5 Secretary of Labor shall find in favor of the claimant in circumstances where the  
6 evidence supporting the claim of the claimant and the evidence controverting the  
7 claim of the claimant is in equipoise.

8 “(e) RECONSIDERATION BASED ON NEW CRITERIA OR  
9 EVIDENCE.—

10 “(1) A claimant may obtain reconsideration of a decision awarding  
11 or denying coverage under this Act within one year after the effective date  
12 of regulations setting forth—

13 “(A) new criteria for establishing a covered beryllium  
14 illness pursuant to section 3622(c) of this Act, or

15 “(B) additional or revised methods for determining  
16 whether a cancer was at least as likely as not related to employment  
17 pursuant to section 3623(c) of this Act  
18 by submitting evidence that is relevant and pertinent to the new  
19 regulations.

20 “(2) A claimant may obtain reconsideration of a decision awarding  
21 or denying benefits under this Act within 90 days of receiving a new  
22 estimate, pursuant to section 3633(e) of this Act, of the radiation dose  
23 received by an employee.

24 “(f) REGULATORY AUTHORITY.—Except as otherwise provided in  
25 this Act, the Secretary of Labor may prescribe regulations necessary for the  
26 administration and enforcement of this Act.

1    **“SEC. 3635. ENERGY EMPLOYEES REVIEW PANEL.**

2           “(a) ESTABLISHMENT--The Energy Employees Review Panel is hereby  
3   established in the Executive Branch of the United States. The Panel shall consist  
4   of not less than three nor more than five members and such additional temporary  
5   members as the President determines are necessary, appointed by the President,  
6   with the advice and consent of the Senate, from among persons who by reason of  
7   training, education, or experience are qualified to carry out the functions of the  
8   Panel under this Act. The President shall designate one of the members of the  
9   Panel to serve as Chairman. The Chairman, members and employees of the Panel  
10   shall be considered ‘employees’ within the meaning of section 2105 of title 5,  
11   United States Code.

12          “(b) TERMS AND PERSONNEL.—The terms of the members of the  
13   Panel shall be six years, except that –

14               “(1) members of the Panel first taking office after the effective  
15               date of this title, shall serve, as designated by the President at the time of  
16               appointment, not more than one for a term of two years, not more than two  
17               for a term of four years and not more than two for a term of six years;

18               “(2) a vacancy caused by the death, resignation, or removal of any  
19               member prior to the expiration of the term for which he was appointed



1           shall be filled only for the remainder of such unexpired term; and

2                   “(3) temporary members of the Panel shall serve for a term of two

3           years.

4   Any member of the Panel may be removed by the President for inefficiency,

5   neglect of duty, or malfeasance in office.

6           “(c) CHAIRMAN.--The Chairman shall be responsible on behalf of the

7   Panel for the administrative operations of the Panel. The Panel shall appoint such

8   employees as it deems necessary to assist in the performance of the Panel's

9   functions and fix their compensation in accordance with the provisions of chapter

10   51 and subchapter III of chapter 53 of title 5, relating to classification and general

11   pay rates.

12           “(d) DELEGATION OF POWERS.—The Panel is authorized to delegate

13   to any group of three members any or all of the powers of the Panel, except that

14   two members shall constitute a quorum of any group designated pursuant to this

15   subsection. The Panel may provide procedures for seeking review by the entire

16   Panel sitting en banc of a decision of a group of three members.

17           “(e) PROCEEDINGS BEFORE THE PANEL.—

18                   “(1)(A) Notwithstanding section 3636(a)(1), a person who receives

19           a radiation dose estimate calculation by the Secretary of Health and

1 Human Services pursuant to section 3633(d) may file and serve a petition  
2 for review by the Panel of such calculation within 60 days after receipt of  
3 the calculation.

4 “(B) Notwithstanding section 3636(a)(2), any person adversely  
5 affected or aggrieved by a final decision of the Secretary of Labor in  
6 issuing determinations and awards with respect to claims filed pursuant to  
7 this Act may file and serve a petition for review by the Panel of such  
8 decision within 60 days after the issuance of such decision.

9 “(2) Petitions for review shall specify the issue or issues upon  
10 which such review is sought.

11 “(3) Each issue shall be separately numbered and plainly and  
12 concisely stated, and shall be supported by detailed citations to the  
13 decision for which review is sought and any relevant evidence entered into  
14 the record prior to issuance of that decision.

15 “(4) The jurisdiction of the Panel is limited to review of  
16 calculations and decisions specified in paragraph (1). Review by the Panel  
17 shall be limited to the questions raised by the petition.

18 “(5) In any proceeding before the Panel challenging a calculation  
19 or decision issued by the Secretary of Labor or the Secretary of Health and

1 Human Services, such Secretary may, in his or her discretion, choose  
2 either to participate or not to participate.

3 “(f) STANDARD OF REVIEW.—A calculation or decision specified in  
4 paragraph (1) that is subject to review by the Panel shall be affirmed unless  
5 arbitrary and capricious.

6 **“SEC. 3636 JUDICIAL REVIEW.**

7 “(a) PRECLUSION.—

8 “(1) Determinations of the Secretary of Health and Human  
9 Services in providing an estimate, pursuant to section 3633 of this Act, of  
10 the radiation dose received by an employee, and decisions of the Energy  
11 Employees Review Panel in review thereof, shall be final and conclusive  
12 for all purposes and with respect to all questions of law and fact and not  
13 subject to review by another official of the United States or by a court by  
14 mandamus or otherwise.

15 “(2) Decisions of the Secretary of Labor in allowing or denying a  
16 payment under this Act, and decisions of the Energy Employees Review  
17 Panel in review thereof, shall be final and conclusive for all purposes and  
18 with respect to all questions of law and fact and not subject to review by  
19 another official of the United States or by a court by mandamus or

1 otherwise, except to the extent provided in subsection (b) of this section.

2 “(b) ISSUES SUBJECT TO JUDICIAL REVIEW.—A person adversely  
3 affected or aggrieved by a final order of the Energy Employees Review Panel  
4 reviewing —

5 “(1) an Initial Screening determination made by the Secretary of  
6 Labor pursuant to section 3633(b) of this Act;

7 “(2) a decision made by the Secretary of Labor that—

8 “(A) a claim was not timely filed;

9 “(B) an employee was not a covered employee;

10 “(C) an employee did not sustain a toxic illness in the  
11 performance of duty in accordance with sections 3623(a) or  
12 3627(c) of this Act;

13 “(D) an employee did not sustain cancer in the  
14 performance of duty in accordance with section 3623(b) of this  
15 Act; or

16 “(E) a claimant was not entitled to compensation pursuant  
17 to section 3630(a) of this Act

18 may obtain a review of that order in any United States Court of Appeals specified  
19 in subsection (d) of this section. The Secretary of Labor shall have the power to

1 petition any United States Court of Appeals specified in subsection (d) of this  
2 section to review any order of the Energy Employees Review Panel specified in  
3 subsection (b) of this section, and to raise any legal argument, notwithstanding  
4 subsection (e) of this section.

5 “(c) PROCEDURE.—In order to obtain such review, the Secretary of  
6 Labor or an individual adversely affected or aggrieved by a final order of the  
7 Energy Employees Review Panel must file a written petition praying that the order  
8 be modified or set aside in such court within 60 days following the issuance of  
9 such order. A copy of such petition shall be forthwith transmitted by the clerk of  
10 the court to the Energy Employees Review Panel and to the Secretary of Labor  
11 and thereupon the Energy Employees Review Panel shall file in the court the  
12 record in the proceedings as provided in section 2112 of title 28, United States  
13 Code. Upon filing of a petition for review, the court shall have jurisdiction over  
14 the proceeding and shall have the power to give a decree affirming, modifying, or  
15 setting aside, in whole or part, the order of the Energy Employees Review Panel  
16 and enforcing same to the extent that such order is affirmed or modified. The  
17 order, writs and processes of the court in such proceedings may run, be served and  
18 be returnable anywhere in the United States.

19 “(d) VENUE.—A petition seeking review of an order of the Energy

1 Employees Review Panel may be filed in the United States Court of Appeals for  
2 any circuit in which the claimant lives at the time of the issuance of the order for  
3 which appeal is sought or for any circuit in which the covered employee at issue is  
4 alleged to have been exposed to hazards in the performance of duty pursuant to  
5 sections 3623 or 3627(c) of this Act.

6 “(e) STANDARD OF REVIEW.—No objection that has not been urged  
7 before the Energy Employees Review Panel shall be considered by the court,  
8 unless the failure or neglect to urge such objection shall be excused because of  
9 extraordinary circumstances. No new evidence may be adduced in proceedings  
10 before the court. The order of the Energy Employees Review Panel shall be  
11 affirmed unless arbitrary and capricious. In reviewing an order of the Energy  
12 Employees Review Panel interpreting a provision of this Act or of a regulation  
13 promulgated pursuant to it, deference shall be afforded by the court to the  
14 Secretary of Labor’s interpretation of such provision.

15 “(f) LIMITATION.—No proceeding in any court may be brought seeking  
16 review of any action or failure to act by the Secretaries of Health and Human  
17 Services or Labor or the Energy Employees Review Panel except as provided this  
18 section.

19 “(g) REPRESENTATION.—Attorneys appointed by the Secretary of

1 Labor shall represent the Secretary of Labor in any court proceeding arising out of  
2 this Act except for proceedings in the Supreme Court of the United States.”.

3 **SEC. 105. GENERAL PROVISIONS.**

4 Subtitle C of the EEOICPA is amended to read as follows:

5 **“Subtitle C—Treatment and Coordination of Compensation and Benefits**

6 **“SEC. 3641. TREATMENT OF COMPENSATION AND BENEFITS.**

7 “(a) IN GENERAL.—Any compensation or benefits allowed, paid, or  
8 provided under this Act—

9 “(1) shall be considered paid under a workers' compensation law  
10 for the purposes of sections 104(a)(1), 3121(a)(2), and 3306(b)(2) of the  
11 Internal Revenue Code;

12 “(2) shall not be included as income or resources for purposes of  
13 determining eligibility to receive benefits described in section  
14 3803(c)(2)(C) of title 31, United States Code, or the amount of those  
15 benefits; and

16 “(3) shall not be subject to offset under chapter 37 of title 31,  
17 United States Code.

18 “(b) INSURANCE.— (1) Compensation or benefits paid or provided  
19 under this Act shall not be considered as any form of compensation or  
20 reimbursement for a loss for purposes of imposing liability on an individual  
21 receiving the compensation or benefits to repay any insurance carrier for insurance  
22 payments made.

23 “(2) The payment or provision of compensation or benefits under this Act  
24 shall not be treated as affecting any claim against an insurance carrier with respect  
25 to insurance.

1           “(c) PROHIBITION ON ASSIGNMENT OR ATTACHMENT OF  
2 CLAIMS.—The provisions of section 8130 of title 5, United States Code, shall  
3 apply to claims and compensation under this Act.

4           “(d) RETENTION OF CIVIL SERVICE RIGHTS.—If a Federal  
5 employee found to be disabled under this Act resumes employment with the  
6 Federal government, the employee shall be entitled to the rights set forth in  
7 section 8151 of title 5, United States Code.

8           **“SEC. 3642. FORFEITURE OF BENEFITS BY CONVICTED FELONS.**

9           “(a) FORFEIT COMPENSATION.—Any individual convicted of a  
10 violation of section 1920 of title 18, or any other Federal or State criminal statute  
11 relating to fraud in the application for or receipt of any benefit under this Act or  
12 under any other Federal or State workers’ compensation law, shall forfeit (as of  
13 the date of such conviction) any entitlement to any benefit under this Act such  
14 individual would otherwise be awarded for any injury, illness or death covered by  
15 this Act for which the time of injury was on or before the date of the conviction.  
16 This forfeiture shall be in addition to any action the Secretary of Labor takes  
17 under sections 8106 or 8129 of title 5, United States Code.

18           “(b) DEPENDENTS.— (1) Notwithstanding any other provision of law,  
19 except as provided under paragraph (2), compensation under this Act shall not be  
20 paid or provided to an individual during any period during which such individual  
21 is confined in a jail, prison, or other penal institution or correctional facility,  
22 pursuant to that individual’s conviction of an offense that constituted a felony  
23 under applicable law. After this period of incarceration ends, the individual shall  
24 not receive compensation forfeited during the period of incarceration.

25           “(2) If an individual has one or more dependents as defined under section  
26 8110(a) of title 5, United States Code, the Secretary of Labor may, during the



1 period of incarceration, pay to such dependents a percentage of the compensation  
2 under section 3628 that would have been payable to the individual computed  
3 according to the percentages set forth in section 8133(a)(1) through (5) of title 5,  
4 United States Code.

5 “(c) INFORMATION.—Notwithstanding section 552a of title 5, United  
6 States Code, or any other Federal or State law, an agency of the United States, a  
7 State, or a political subdivision of a State shall make available to the Secretary of  
8 Labor, upon written request from the Secretary of Labor and if the Secretary of  
9 Labor requires the information to carry out this section, the names and Social  
10 Security account numbers of individuals confined, for conviction of a felony, in a  
11 jail, prison, or other penal institution or correctional facility under the jurisdiction  
12 of that agency.

13 **“SEC. 3643. LIMITATION ON RIGHT TO RECEIVE BENEFITS.**

14 “(a) CLAIMANT.—A claimant who receives compensation under section  
15 3629(a) of this Act shall not receive compensation for any other claim under this  
16 Act, except for compensation provided under the authority of section 8103(b) of  
17 title 5, United States Code.

18 “(b) SURVIVOR.—If a survivor receives compensation under section  
19 3629(a) of this title for any claim under this Act derived from a covered  
20 employee, except for compensation provided under the authority of section  
21 8103(b) of title 5, United States Code, such survivor shall not receive  
22 compensation for any other claim under this Act derived from the same covered  
23 employee. A survivor of a claimant who receives compensation for any claim  
24 under this Act, except for compensation provided under the authority of section  
25 8103(b) of title 5, United States Code, shall not receive compensation for any  
26 other claim under this Act derived from the same covered employee.

1           “(c) WIDOW OR WIDOWER.--A widow or widower who is eligible for  
2 benefits under this Act derived from more than one husband or wife shall elect  
3 one benefit to receive.

4       **“SEC. 3644. COORDINATION OF BENEFITS - STATE WORKERS’**  
5       **COMPENSATION.**

6           “(a) IN GENERAL.—An individual who is eligible to receive  
7 compensation under this Act, because of a cancer (including a specified cancer) or  
8 a toxic illness, or death and who is also entitled to receive benefits because of the  
9 same cancer (including a specified cancer), toxic illness, or death from a State  
10 workers' compensation system shall elect which benefits to receive, unless--

11                   “(1) at the time of injury, workers' compensation coverage for the  
12 employee was secured by a policy or contract of insurance; and

13                   “(2) the Secretary of Labor waives the requirement to make such  
14 an election.

15           “(b) ELECTION.—The individual shall make the election within the time  
16 allowed by the Secretary of Labor. The election when made is irrevocable and  
17 binding on all survivors of that individual.

18           “(c) COORDINATION.—Except as provided in paragraph (d), an  
19 individual who has been awarded compensation under this Act and who also has  
20 received benefits from a State workers’ compensation system because of the same  
21 cancer (including a specified cancer), toxic illness, or death, shall receive  
22 compensation as specified under this Act reduced by the amount of any workers'  
23 compensation benefits that the individual has received under the State workers'  
24 compensation system as a result of the cancer (including a specified cancer), toxic  
25 illness, or death attributable to the period subsequent to the effective date of this

1 Act, after deducting the reasonable costs, as determined by the Secretary of Labor,  
2 of obtaining benefits under the State workers' compensation system.

3 “(d) WAIVER.—An individual described in paragraph (a) who has also  
4 received, under paragraph (a)(2), a waiver of the requirement to elect between  
5 compensation under this Act and benefits under a State workers' compensation  
6 system shall receive compensation as specified in this Act for the cancer  
7 (including a specified cancer), toxic illness, or death, reduced by eighty percent of  
8 the net amount of any workers' compensation benefits that the claimant has  
9 received under a State workers' compensation system attributable to the period  
10 subsequent to the effective date of this Act, after deducting the reasonable costs,  
11 as determined by the Secretary of Labor, of obtaining benefits under the State  
12 workers' compensation system.

13 **“SEC. 3645. COORDINATION OF BENEFITS – FEDERAL WORKERS’**  
14 **COMPENSATION.**

15 “(a) IN GENERAL.--An individual who is eligible to receive  
16 compensation under this Act because of a cancer (including a specified cancer),  
17 toxic illness, or death and who is also entitled to receive benefits because of the  
18 same cancer (including a specified cancer), toxic illness, or death from another  
19 Federal workers' compensation system shall elect which such benefits to receive.

20 “(b) ELECTION.—The individual shall make the election within the time  
21 allowed by the Secretary of Labor. The election when made is irrevocable and  
22 binding on all survivors of that individual.

23 “(c) COORDINATION.— An individual who has been awarded  
24 compensation under this Act and who also has received benefits from another  
25 Federal workers' compensation system because of the same cancer (including a  
26 specified cancer), toxic illness, or death, shall receive compensation as specified

1 under this Act reduced by the amount of any workers' compensation benefits  
2 attributable to the period subsequent to the effective date of this Act that the  
3 individual has received under the other Federal workers' compensation system as a  
4 result of the cancer (including a specified cancer), toxic illness, or death.

5 **“SEC. 3646. DUAL COMPENSATION - OTHER EMPLOYEES.**

6 “An individual entitled to receive compensation under this Act because of  
7 a cancer (including a specified cancer), toxic illness, or death covered by this Act  
8 of a covered employee, who also is entitled to receive from the United States  
9 under a provision of a statute other than this Act payments or benefits for that  
10 injury, illness or death (except proceeds of an insurance policy), because of  
11 service by such employee (or in the case of death, by the deceased) as an  
12 employee or in the armed forces, shall elect which benefits to receive. The  
13 individual shall make the election within the time allowed by the Secretary of  
14 Labor. The election when made is irrevocable, except as otherwise provided by  
15 statute.

16 **“SEC. 3647. RECEIPT OF BENEFITS - OTHER STATUTES.**

17 “Except to the extent specified in section 3630 of this Act, an individual  
18 may not receive compensation under this Act for cancer and also receive  
19 compensation under the Radiation Exposure Compensation Act (42 U.S.C. 2210  
20 note) as a result of the same cancer.

21 **“SEC. 3648. EXCLUSIVITY OF REMEDY AGAINST THE UNITED**  
22 **STATES, CONTRACTORS, AND SUBCONTRACTORS.**

23 “(a) IN GENERAL.--The liability of the United States or an  
24 instrumentality of the United States under this Act with respect to a cancer  
25 (including a specified cancer), an illness defined in sections 3621(8) and 3627(e)

1 of this Act, or death related thereto of a covered employee is exclusive and instead  
2 of all other liability--

3 “(1) of--

4 “(A) the United States;

5 “(B) any instrumentality of the United States;

6 “(C) a contractor that contracted with the Department of  
7 Energy to provide management and operation, management and  
8 integration, or environmental remediation of a Department of  
9 Energy facility (in its capacity as a contractor);

10 “(D) a subcontractor that provided services, including  
11 construction, at a Department of Energy facility (in its capacity as a  
12 subcontractor); and

13 “(E) an employee, agent, or assign of an entity specified in  
14 subparagraphs (A) through (D)--

15 “(2) to--

16 “(A) the covered employee;

17 “(B) the covered employee's legal representative, spouse,  
18 dependents, survivors, and next of kin, and

19 “(C) any other person, including any third party as to  
20 whom the covered employee or the covered employee's legal  
21 representative, spouse, dependents, survivors, or next of kin has a  
22 cause of action relating to the cancer (including a specified cancer),  
23 an illness defined in sections 3621(8) and 3627(e) of this Act, or  
24 death, otherwise entitled to recover damages from the United  
25 States, the instrumentality, the contractor, the subcontractor, or the  
26 employee, agent, or assign of one of them—

1 because of the cancer (including a specified cancer), an illness defined in sections  
2 3621(8) and 3627(e) of this Act, or death in any proceeding or action including a  
3 direct judicial proceeding, a civil action, a proceeding in admiralty, or a  
4 proceeding under a tort liability statute or the common law.

5 “(b) APPLICABILITY.—This section applies to all cases filed on or after  
6 October 30, 2000.

7 “(c) WORKERS’ COMPENSATION.—This section does not apply to an  
8 administrative or judicial proceeding under a State or Federal workers’  
9 compensation statute.

10 **“SEC. 3649. PAYMENT IN FULL SETTLEMENT OF CLAIMS.**

11 “(a) SATISFACTION.—The acceptance by an individual of payment of  
12 compensation under this Act with respect to a covered employee shall be in full  
13 satisfaction of all claims of or on behalf of that individual against the United  
14 States, a Department of Energy contractor or subcontractor, a beryllium vendor,  
15 atomic weapons employer or against any person with respect to that person’s  
16 performance of a contract with the United States that arise out of the exposure of a  
17 covered beryllium employee, a covered employee with cancer, covered employee  
18 exposed to the toxic substance for which a test of exposure in the performance of  
19 duty is set forth in section 3627(c) or a covered uranium employees (as defined in  
20 section 3630 of this Act), while so employed, to beryllium, radiation, the toxic  
21 substance for which a test of exposure in the performance of duty is set forth in  
22 section 3627(c), or radiation, respectively.

23 “(b) WORKERS’ COMPENSATION.—This section does not apply to an  
24 administrative or judicial proceeding under a State or Federal workers’  
25 compensation statute.

26 **“SEC. 3650. SUBROGATION OF THE UNITED STATES.**

1           “(a) IN GENERAL.—If a cancer (including a specified cancer), toxic  
2   illness or death for which compensation is payable under this Act is caused under  
3   circumstances creating a legal liability in a person other than the United States to  
4   pay damages, sections 8131 and 8132 of title 5, United States Code, shall apply,  
5   except to the extent specified in this Act.

6           “(b) APPEARANCE OF EMPLOYEE.—For the purposes of this Act, the  
7   provision in section 8131 of title 5, United States Code, that provides that an  
8   employee required to appear as a party or witness in the prosecution of an action  
9   described in that section is in an active duty status while so engaged shall only  
10   apply to a Federal employee.

11   **“SEC. 3651. CONSTRUCTION WITH OTHER LAWS.**

12           “(a) IN GENERAL.—References in this Act to a provision of another  
13   statute shall be considered as references to such provision, as amended and as may  
14   be amended from time to time.

15           “(b) EMPLOYEE.—In applying any provision of chapter 81 of title 5,  
16   United States Code (except section 8101), under this title, the term ‘employee’ in  
17   such provision shall mean a covered employee.

18           “(c) EMPLOYEES COMPENSATION FUND.—In applying any  
19   provision of chapter 81 of title 5, United States Code, under this Act, the term  
20   ‘Employees Compensation Fund’ in such provision shall mean the ‘Energy  
21   Employees Occupational Illness Compensation Fund’.”.

22           **TITLE II TECHNICAL AND CONFORMING AMENDMENTS**

23   **SEC. 201 CONFORMING AMENDMENTS.**

24           (a) DELEGATION.—Section 3611(a) of the EEOICPA is amended by  
25   striking the second sentence.

1 (b) ELIGIBILITY.—Section 3611 of the EEOICPA is amended by  
2 striking subsection (c).

3 (c) COVERED BERYLLIUM EMPLOYEE.—Section 3621(7) of the  
4 EEOICPA is amended by striking “, if and only if the employee is determined to  
5 have been exposed to beryllium in the performance of duty in accordance with  
6 section 3623(a)”.

7 (d) COVERED BERYLLIUM ILLNESS.—Section 3621(8)(A) of the  
8 EEOICPA is amended by inserting “or by other means designated by the Secretary  
9 of Health and Human Services pursuant to section 3622 of this Act” after “cells”.

10 (e) CHRONIC BERYLLIUM DISEASE.— Section 3621(8)(B) of the  
11 EEOICPA is amended by striking “Established chronic” and inserting “Chronic”.

12 (f) COVERED EMPLOYEE WITH CANCER.—Section 3621(9)(B) of  
13 the EEOICPA is amended to read as follows:

14 “(B) An individual specified in clauses (i), (ii), or (iii):

15 “(i) A Department of Energy employee who contracted  
16 cancer after beginning employment at a Department of Energy  
17 facility.

18 “(ii) A Department of Energy contractor employee who  
19 contracted cancer after beginning employment at a Department of  
20 Energy facility.

21 “(iii) An atomic weapons employee who contracted cancer  
22 after beginning employment at an atomic weapons employer  
23 facility.”.

24 (g) BERYLLIUM DISEASE.—Section 3621(13) of the EEOICPA is  
25 amended by striking “established” the first time it appears and by inserting a new  
26 subparagraph at the end as follows:



1                   “(C) Other means designated by the Secretary of Health and  
2                   Human Services pursuant to section 3622 of this Act.”.

3                   (h) GASEOUS DIFFUSION PLANT.—Subsection 3621(14)(A) of the  
4                   EEOICPA is amended by striking “a gaseous diffusion plant” and replacing it  
5                   with “one or more of the gaseous diffusion plants”.

6                   (i) SPECIAL EXPOSURE COHORT.—Section 3621(14)(C) of the  
7                   EEOICPA is amended by striking “President” each time it appears and inserting  
8                   “Secretary of Health and Human Services”.

9                   (j) RADIATION.— Section 3621(15) of the EEOICPA is deleted.

10                  (k) NEW DEFINITIONS.—Section 3621 of EEOICPA is amended by  
11                  redesignating paragraphs (16), (17), and (18) as (15), (16), and (17) respectively  
12                  and by inserting at the end, the following:

13                         “(18) Each of the terms defined in subsections 8101(2), (3), (5) –  
14                         (11) and (17) – (20) of title 5, United States Code has the meaning given  
15                         that term in that statute when used in this Act.

16                         “(19) The term ‘time of injury’ means–

17                                 “(A) in regard to a claim arising out of exposure to a toxic  
18                                 substance, the last date on which a covered employee was exposed  
19                                 to such toxic substance in the performance of duty in accordance  
20                                 with sections 3623(a) or 3627(c) of this Act; or

21                                 “(B) in regard to a claim arising out of exposure to  
22                                 radiation, the last date on which a covered employee was exposed  
23                                 to radiation in the performance of duty in accordance with section

1           3623(b) of this Act or, in the case of a member of the Special  
2           Exposure Cohort, the last date on which the member of the Special  
3           Exposure Cohort was employed at the Department of Energy  
4           facility at which the member was exposed to radiation.

5           “(20) The term ‘toxic illness’ means those illnesses defined in  
6           sections 3621(8) and 3627(e) of this Act.

7           “(21) The term ‘toxic substance’ means a substance for which a  
8           test of exposure in the performance of duty is set forth in section 3623(a)  
9           or 3627(c) of this Act.

10          “(22) The term ‘compensation’ means the money allowance  
11          payable under this Act and any other benefits paid for from the Energy  
12          Employees Occupational Illness Compensation Fund, including the  
13          alternative compensation payable pursuant to section 3629 of this Act, and  
14          payments made pursuant to section 3630 of this Act.”.

15          (l) ADDITIONAL DESIGNATIONS.—Section 3622 of the EEOICPA is  
16          amended by--

17                  (1) striking the title of the section and inserting “ADDITIONAL  
18          DESIGNATIONS” in its place;

19                  (2) striking “Not” and inserting “(a) BERYLLIUM VENDORS.—  
20          Not” in its place, striking “President” each time it appears and inserting

1 “Secretary of Energy”, striking “in consultation with the Secretary of  
2 Energy;”; and

3 (3) inserting at the end new subsections (b) and (c) as follows:

4 “(b) ATOMIC WEAPONS EMPLOYERS.—The Secretary of  
5 Energy may, from time to time, designate an entity as an atomic weapons  
6 employer for the purposes of this Act if such entity meets the definition of  
7 atomic weapons employer set forth in section 3621(4)(A) of this Act.

8 “(c) MEANS OF ESTABLISHING COVERED BERYLLIUM  
9 ILLNESSES.—The Secretary of Health and Human Services may from  
10 time to time, and in consultation with the Secretary of Energy, specify  
11 means of establishing the existence of a covered beryllium illness referred  
12 to in section 3621(8)(A) or section 3621(13) of this Act, in addition to the  
13 means already specified in such sections.”.

14 (m) CANCER.—Section 3623(b) of the EEOICPA is amended by--

15 (1) inserting (1) before “An”;

16 (2) striking “with cancer specified in subclause (I), (II), or (III)”  
17 and inserting “specified in clause (i), (ii), or (iii)”;

18 (3) striking “that” after “sustained”;

19 (4) striking “cancer specified in that subclause” and inserting  
20 “cancer was contracted after beginning employment as a Department of  
21 Energy contractor employee or Department of Energy employee at a

1 Department of Energy facility or as an atomic weapons employee at an  
2 atomic weapons employer facility and”; and

3 (5) inserting a new paragraph after paragraph (1) as follows:

4 “(2) A member of the Special Exposure Cohort shall be determined  
5 to have sustained a specified cancer in the performance of duty if, and only  
6 if, such individual contracted a specified cancer after beginning  
7 employment at a Department of Energy facility for a Department of  
8 Energy contractor or an atomic weapons employer facility for an atomic  
9 weapons employer.”.

10 (n) GUIDELINES.—Section 3623(c) of the EEOICPA is amended by—

11 (1) in paragraph (1), striking “President” and inserting “Secretary  
12 of Health and Human Services”; and

13 (2) amending paragraph (2) to read as follows:

14 “(2) The Secretary of Health and Human Services shall establish  
15 such guidelines after consultation with the Secretary of Energy and after  
16 technical review by the Advisory Board on Radiation and Worker  
17 Health.”.

18 (o) INFORMATION.—Section 3623(e) of the EEOICPA is amended by  
19 striking paragraph (1) and “(2)”.

20 (p) CHRONIC RENAL DISEASE.—Section 3624(b) of the EEOICPA is  
21 amended by striking “and” the third time it appears, striking “(3)” and inserting  
22 “(4)”, and inserting after paragraph (2) the following new paragraph:

23 “(3) whether this Act should be amended to provide benefits for chronic  
24 renal disease; and”.

1 (q) PNEUMOCONIOSES.— Section 3627(e)(2)(A) of the EEOICPA is  
2 amended by striking “pneumoconioses of category 1/1 or higher” and inserting  
3 “pneumoconioses of category 1/0 or higher”.

4 (r) MEDICAL DOCUMENTATION.— Section 3627 of the EEOICPA is  
5 amended by adding a new subsection (f) at the end as follows:  
6 “(f) MEDICAL DOCUMENTATION.—Claimants seeking benefits under  
7 this Act for the disease specified in subsection (e) of this section shall be  
8 reimbursed from the compensation fund for reasonable diagnostic medical  
9 expenses incurred by them in establishing their claims.”.

10 (s) URANIUM EMPLOYEES AWARD.—Section 3630 of the EEOICPA  
11 is amended to read as follows:  
12 **“SEC. 3630. SEPARATE TREATMENT OF CERTAIN URANIUM**  
13 **EMPLOYEES.**

14 “(a) COMPENSATION PROVIDED.—An individual who has been  
15 awarded \$100,000 under section 5 of the Radiation Exposure Compensation Act  
16 (42 U.S.C. 2210 note) for a claim made under that Act shall receive compensation  
17 under this section in the amount of \$50,000. In the event an individual who  
18 sustained an illness for which \$100,000 was awarded under section 5 of the  
19 Radiation Exposure Compensation Act dies before collecting compensation  
20 pursuant to this subsection, the right to receive compensation under this  
21 subsection shall be afforded to survivors in the order of precedence set forth in  
22 section 8109 of title 5, United States Code.

23 “(b) OTHER BENEFITS.—An individual who sustained an illness for  
24 which he or she received an award under section 5 of the Radiation Exposure  
25 Compensation Act shall receive the compensation provided in subsection  
26 3628(a)(2) of this Act as a result of that illness.

1 “(c) COORDINATION.—The compensation provided in subsections (a)  
2 and (b) of this section is in addition to any payments received pursuant to the  
3 Radiation Exposure Compensation Act. Sections 3643-3644 of this Act do not  
4 apply to the compensation received pursuant to subsections (a) and (b) of this  
5 section.

6 “(d) PAYMENT FROM COMPENSATION FUND.—The compensation  
7 provided under this section, when authorized or approved by the President, shall  
8 be paid from the compensation fund established under section 3612.

9 “(e) PROCEDURES REQUIRED.—The Attorney General shall establish  
10 procedures to identify and notify each covered uranium employee, or the survivor  
11 of that covered uranium employee if that employee is deceased, of the availability  
12 of compensation and benefits under this section.”.

13 (t) CLAIMANTS.—Section 3631 of the EEOICPA is amended by—

14 (1) in subsection (a), striking “President” and inserting “Secretary  
15 of Labor”;

16 (2) in subsection (b), striking “President” and inserting “Secretary  
17 of Energy in consultation with the Secretary of Labor”; and

18 (3) in subsection (c), striking “President” and inserting “Secretary  
19 of Health and Human Services or the Secretary of Labor”.

20 (u) PANEL.—Subsections (d)(1) and (d)(2)(A) of section 3661 of the  
21 EEOICPA are amended to read as follows:

22 “(d) PANEL.—

23 “(1) NUMBER OF PANELS.—The Secretary shall establish one  
24 or more physicians panels to administer this section. The Secretary, in  
25 consultation with the Secretary of Health and Human Services, shall  
26 determine the number of physicians panels appropriate to administer this

1 section, the number of physicians needed for each panel, and the area of  
2 jurisdiction of each panel.

3 “(2) APPOINTMENT.

4 “(A) IN GENERAL.—The Secretary of Health and Human  
5 Services shall nominate panel members with experience and  
6 competency in diagnosing occupational illnesses, and pursuant to  
7 section 3109 of title 5, United States Code, the Secretary shall  
8 appoint the individuals nominated by the Secretary of Health and  
9 Human Services.”.

10 **SEC. 202 TECHNICAL AMENDMENTS.**

11 (a) CONFORMING CHANGE.—Section 1920 of title 18 is amended by  
12 inserting in the title “or Energy employee’s” after “Federal employee’s” and by  
13 inserting “or the Energy Employees Occupational Illness Compensation Program  
14 Act of 2000” after “title 5”.

15 (b) CONFORMING CHANGE.—Section 1921 of title 18 is amended by  
16 inserting in the title “or Energy employees” after “Federal employees” and by  
17 inserting “or the Energy Employees Occupational Illness Compensation Program  
18 Act of 2000” after “title 5”.

19 (c) ERA.—Section 211(a)(1) of the Energy Reorganization Act of 1974  
20 (42 U.S.C. 5851(a)(1)) is amended by—

21 (1) in subparagraph (E), striking “or”,

22 (2) in subparagraph (F), striking the period and inserting “; or”,

23 and

24 (3) after subparagraph (F) inserting a new subparagraph as  
25 follows:

1                   “(G) filed an application for benefits or assistance under  
2                   the Energy Employees Occupational Illness Compensation  
3                   Program Act of 2000.”.

4           (d) OFFICE OF WORKERS’ COMPENSATION ADVOCATE.—Title II  
5 of the Department of Energy Organization Act (42 U.S.C. 7131, et seq.) is  
6 amended by adding at the end of the title the following:

7                   “OFFICE OF WORKERS’ COMPENSATION ADVOCATE

8           “SEC. 217. (a) There is established within the Department an Office of  
9 Workers’ Compensation Advocate. The Office shall be headed by a Director who  
10 shall be appointed by the Secretary. The Director shall be compensated at the rate  
11 provided for in level IV of the Executive Schedule under section 5315 of title 5,  
12 United States Code.

13           “(b) The Director shall be responsible for providing information, research  
14 reports, and studies to support the implementation of the Energy Employees  
15 Occupation Illness Compensation Program Act of 2000. Not later than 90 days  
16 after the effective date of this section, the Director shall enter into memoranda of  
17 agreement to provide for coordination of the efforts of the Office with the  
18 Department of Labor and the Department of Health and Human Services.

19           “(c) The Director shall coordinate efforts within the Department to collect  
20 and make available to present and former employees of the Department and its  
21 predecessor agencies, present and former employees of contractors and  
22 subcontractors of the Department and its predecessor agencies, and other  
23 individuals who are or were present at facilities owned or operated by the  
24 Department or its predecessor agencies information on occupational conditions  
25 and exposures to health hazards. This information shall include information on  
26 substances and their chemical forms to which employees may have been exposed,



1 records and studies relevant to determining occupational hazards, raw dosimetry  
2 and industrial hygiene data, results from medical screening programs, accident  
3 and other relevant occurrence reports, and reports, assessments, or reviews by  
4 contractors, consultants, or external entities relevant to assessing risk of  
5 occupational hazards or illness.

6 “(d) If the Director determines that—

7 “(1) an entity within the Department or an entity that is the  
8 recipient of a Departmental grant, contract, or cooperative agreement  
9 possesses information necessary to carry out the Energy Employees  
10 Occupation Illness Compensation Program Act of 2000, and

11 “(2) the production and sharing of that information under the  
12 Energy Employees Occupation Illness Compensation Program Act of 2000  
13 is being unreasonably delayed --

14 the Director, notwithstanding section 3213 of the National Nuclear Security  
15 Administration Act, may direct the entity to produce the information expeditiously  
16 in accordance with this section and the Energy Employees Occupation Illness  
17 Compensation Program Act of 2000.

18 “(e) The Director shall inform and assist potential claimants under the  
19 section 3631(c) of Energy Employees Occupation Illness Compensation Program  
20 Act of 2000.”.

21 **SEC. 203. AMENDMENT TO THE RADIATION EXPOSURE**  
22 **COMPENSATION ACT.**

23 (a) APPROPRIATIONS.—Section 3 of the Radiation Exposure  
24 Compensation Act (42 U.S.C. 2210 note) is amended by adding at its end a new  
25 subsection (f) to read as follows:

1           “(f) Such sums as may be necessary to carry out the purposes of this Act  
2 are hereby appropriated to the Fund.”.

3           (b) COMPENSATION.—Section 6(e) of the Radiation Exposure  
4 Compensation Act (42 U.S.C. 2210 note) is amended by adding “Except as  
5 otherwise authorized by law,” to the beginning of that subsection.

6   **SEC. 204. EFFECTIVE DATE**

7           The effective date of this Act is the later of July 31, 2001, or the date of  
8 enactment of this Act.